

AMENDED IN SENATE JANUARY 12, 1998

AMENDED IN SENATE MAY 20, 1997

AMENDED IN SENATE MAY 6, 1997

AMENDED IN SENATE MAY 1, 1997

AMENDED IN SENATE APRIL 24, 1997

AMENDED IN SENATE MARCH 31, 1997

SENATE BILL

No. 149

Introduced by Senators ~~Knight~~ and Senator Rainey
(~~Coauthors: Assembly Members Leach and Torlakson~~)

January 13, 1997

An act to amend Section 7319 of the Business and Professions Code, and to amend Section 243 of the Penal Code, relating to corrections.

LEGISLATIVE COUNSEL'S DIGEST

SB 149, as amended, ~~Knight~~ Rainey. Corrections.

(1) ~~Existing~~

Existing law exempts various persons from licensure and other regulatory provisions of the Barbering and Cosmetology Act.

This bill would additionally exempt from those provisions persons rendering barbering or cosmetology services in the course of and incidental to the incarceration or confinement of specified persons.

(2) ~~Under existing law, while battery is generally a misdemeanor punishable by county jail time not exceeding 6~~

~~months, the battery of specified officers or other persons is a misdemeanor punishable by county jail time not exceeding one year, and the battery of those specified officers or other persons where there is infliction of injury is punishable as either a misdemeanor or felony.~~

~~This bill would include juvenile institution employees, as defined, in the list of specified officers or other persons to which the above provisions apply. By expanding the scope of existing crimes, this bill would impose a state-mandated local program.~~

~~(3) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.~~

~~This bill would provide that no reimbursement is required by this act for a specified reason.~~

~~Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: yes no.~~

The people of the State of California do enact as follows:

1 SECTION 1. Section 7319 of the Business and
2 Professions Code is amended to read:

3 7319. The following persons are exempt from this
4 chapter:

5 (a) All persons authorized by the laws of this state to
6 practice medicine, surgery, dentistry, pharmacy,
7 osteopathic medicine, chiropractic, naturopathy,
8 podiatry, or nursing and acting within the scope of
9 practice for which they are licensed.

10 (b) Commissioned officers of the United States Army,
11 Navy, Air Force, Marine Corps, members of the United
12 States Public Health Service, and attendants attached to
13 those services when engaged in the actual performance
14 of their official duties.

15 (c) Persons employed to render barbering,
16 cosmetology, or electrolysis services in the course of and
17 incidental to the business of employers engaged in the
18 theatrical, radio, television or motion picture production
19 industry.



(d) Persons engaged in any practice within its scope when done outside of a licensed establishment, without compensation.

(e) Persons engaged in the administration of hair, skin, or nail products for the exclusive purpose of recommending, demonstrating, or selling those products.

(f) Persons who render barbering or cosmetology services in the course of and incidental to the incarceration or confinement of inmates, prisoners, or persons charged with a crime or detained in a state prison, an institution under the Department of the Youth Authority, a county jail, or local detention facilities for adult or juvenile offenders.

~~SEC. 2. Section 243 of the Penal Code is amended to read:~~

~~243. (a) A battery is punishable by a fine not exceeding two thousand dollars (\$2,000), or by imprisonment in a county jail not exceeding six months, or by both the fine and imprisonment.~~

~~(b) When a battery is committed against the person of a peace officer, custodial officer, juvenile institution employee, firefighter, emergency medical technician, mobile intensive care paramedic, lifeguard, process server, traffic officer, or animal control officer engaged in the performance of his or her duties, whether on or off duty, including when the peace officer is in a police uniform and is concurrently performing the duties required of him or her as a peace officer while also employed in a private capacity as a part-time or casual private security guard or patrolman, or a physician or nurse engaged in rendering emergency medical care outside a hospital, clinic, or other health care facility, and the person committing the offense knows or reasonably should know that the victim is a peace officer, custodial officer, juvenile institution employee, firefighter, emergency medical technician, mobile intensive care paramedic, lifeguard, process server, traffic officer, or animal control officer engaged in the performance of his or her duties, or a physician or nurse engaged in rendering emergency medical care, the battery is~~

~~1 punishable by a fine not exceeding two thousand dollars~~
~~2 (\$2,000), or by imprisonment in a county jail not~~
~~3 exceeding one year, or by both the fine and~~
~~4 imprisonment.~~

~~5 (e) When a battery is committed against a peace~~
~~6 officer, custodial officer, juvenile institution employee,~~
~~7 firefighter, emergency medical technician, mobile~~
~~8 intensive care paramedic, lifeguard, process server,~~
~~9 traffic officer, or animal control officer engaged in the~~
~~10 performance of his or her duties, whether on or off duty,~~
~~11 including when the peace officer is in a police uniform~~
~~12 and is concurrently performing the duties required of~~
~~13 him or her as a peace officer while also employed in a~~
~~14 private capacity as a part-time or casual private security~~
~~15 guard or patrolman, or a physician or nurse engaged in~~
~~16 rendering emergency medical care outside a hospital,~~
~~17 clinic, or other health care facility, and the person~~
~~18 committing the offense knows or reasonably should know~~
~~19 that the victim is a peace officer, custodial officer,~~
~~20 juvenile institution employee, firefighter, emergency~~
~~21 medical technician, mobile intensive care paramedic,~~
~~22 lifeguard, process server, traffic officer, or animal control~~
~~23 officer engaged in the performance of his or her duties,~~
~~24 or a physician or nurse engaged in rendering emergency~~
~~25 medical care, and an injury is inflicted on that victim, the~~
~~26 battery is punishable by imprisonment in a county jail for~~
~~27 a period of not more than one year, or by a fine of not~~
~~28 more than two thousand dollars (\$2,000), or by~~
~~29 imprisonment in the state prison for 16 months, or two or~~
~~30 three years.~~

~~31 (d) When a battery is committed against any person~~
~~32 and serious bodily injury is inflicted on the person, the~~
~~33 battery is punishable by imprisonment in a county jail for~~
~~34 a period of not more than one year or imprisonment in~~
~~35 the state prison for two, three, or four years.~~

~~36 (e) (1) When a battery is committed against a spouse,~~
~~37 person with whom the defendant is cohabiting, person~~
~~38 who is the parent of the defendant's child, nonehabiting~~
~~39 former spouse, fiancé, fiancée, or a person with whom the~~
~~40 defendant currently has, or has previously had, a dating~~

1 ~~relationship, the battery is punishable by a fine not~~
2 ~~exceeding two thousand dollars (\$2,000), or by~~
3 ~~imprisonment in a county jail for a period of not more~~
4 ~~than one year, or by both. If probation is granted, or the~~
5 ~~execution or imposition of the sentence is suspended, it~~
6 ~~shall be a condition thereof that the defendant participate~~
7 ~~in, for no less than one year, and successfully complete, a~~
8 ~~batterer's treatment program, as defined in Section~~
9 ~~1203.097, or if none is available, another appropriate~~
10 ~~counseling program designated by the court. However,~~
11 ~~this provision shall not be construed as requiring a city, a~~
12 ~~county, or a city and county to provide a new program or~~
13 ~~higher level of service as contemplated by Section 6 of~~
14 ~~Article XIII B of the California Constitution.~~

15 ~~(2) Upon conviction of a violation of this subdivision,~~
16 ~~if probation is granted, the conditions of probation may~~
17 ~~include, in lieu of a fine, one or both of the following~~
18 ~~requirements:~~

19 ~~(A) That the defendant make payments to a battered~~
20 ~~women's shelter, up to a maximum of five thousand~~
21 ~~dollars (\$5,000).~~

22 ~~(B) That the defendant reimburse the victim for~~
23 ~~reasonable costs of counseling and other reasonable~~
24 ~~expenses that the court finds are the direct result of the~~
25 ~~defendant's offense.~~

26 ~~For any order to pay a fine, make payments to a~~
27 ~~battered women's shelter, or pay restitution as a~~
28 ~~condition of probation under this subdivision, the court~~
29 ~~shall make a determination of the defendant's ability to~~
30 ~~pay. In no event shall any order to make payments to a~~
31 ~~battered women's shelter be made if it would impair the~~
32 ~~ability of the defendant to pay direct restitution to the~~
33 ~~victim or court-ordered child support. Where the injury~~
34 ~~to a married person is caused in whole or in part by the~~
35 ~~criminal acts of his or her spouse in violation of this~~
36 ~~section, the community property may not be used to~~
37 ~~discharge the liability of the offending spouse for~~
38 ~~restitution to the injured spouse, required by Section~~
39 ~~1203.04, as operative on or before August 2, 1995, or~~
40 ~~Section 1202.4, or to a shelter for costs with regard to the~~

~~injured spouse and dependents, required by this section, until all separate property of the offending spouse is exhausted.~~

~~(3) Upon conviction of a violation of this subdivision, if probation is granted or the execution or imposition of the sentence is suspended and the person has been previously convicted of a violation of this subdivision and sentenced under paragraph (1), the person shall be imprisoned for not less than 48 hours in addition to the conditions in paragraph (1). However, the court, upon a showing of good cause, may elect not to impose the mandatory minimum imprisonment as required by this subdivision and may, under these circumstances, grant probation or order the suspension of the execution or imposition of the sentence.~~

~~The Legislature finds and declares that these specified crimes merit special consideration when imposing a sentence so as to display society's condemnation for these crimes of violence upon victims with whom a close relationship has been formed.~~

~~(f) As used in this section:~~

~~(1) "Peace officer" means any person defined in Chapter 4.5 (commencing with Section 830) of Title 3 of Part 2.~~

~~(2) "Emergency medical technician" means a person possessing a valid course completion certificate from a program approved by the State Department of Health Services for the medical training and education of ambulance personnel, and who meets the standards of Division 2.5 (commencing with Section 1797) of the Health and Safety Code.~~

~~(3) "Mobile intensive care paramedic" means any person who meets the standards set forth in Section 1797.84 of, and Division 2.5 (commencing with Section 1797) of, the Health and Safety Code.~~

~~(4) "Nurse" means a person who meets the standards of Division 2.5 (commencing with Section 1797) of the Health and Safety Code.~~

~~(5) "Serious bodily injury" means a serious impairment of physical condition, including, but not~~

1 ~~limited to, the following: loss of consciousness; concussion;~~
2 ~~bone fracture; protracted loss or impairment of function~~
3 ~~of any bodily member or organ; a wound requiring~~
4 ~~extensive suturing; and serious disfigurement.~~

5 ~~(6) “Injury” means any physical injury which requires~~
6 ~~professional medical treatment.~~

7 ~~(7) “Custodial officer” means any person who has the~~
8 ~~responsibilities and duties described in Section 831 and~~
9 ~~who is employed by a law enforcement agency of any city~~
10 ~~or county or who performs those duties as a volunteer.~~

11 ~~(8) “Lifeguard” means a person defined in paragraph~~
12 ~~(5) of subdivision (c) of Section 241.~~

13 ~~(9) “Traffic officer” means any person employed by a~~
14 ~~city, county, or city and county, to monitor and enforce~~
15 ~~state laws and local ordinances relating to parking and the~~
16 ~~operation of vehicles.~~

17 ~~(10) “Animal control officer” means any person~~
18 ~~employed by a city, county, or city and county for~~
19 ~~purposes of enforcing animal control laws or regulations.~~

20 ~~(11) “Dating relationship” means frequent, intimate~~
21 ~~associations primarily characterized by the expectation of~~
22 ~~affectional or sexual involvement independent of~~
23 ~~financial considerations.~~

24 ~~(12) “Juvenile institution employee” means any~~
25 ~~person employed at a juvenile hall, home, ranch, camp,~~
26 ~~forestry camp, day center, or regional youth educational~~
27 ~~facility, established and operated pursuant to Chapter 2~~
28 ~~(commencing with Section 200) of Part 1 of Division 2 of~~
29 ~~the Welfare and Institutions Code.~~

30 ~~It is the intent of the Legislature by amendments to this~~
31 ~~section at the 1981-82 and 1983-84 Regular Sessions to~~
32 ~~abrogate the holdings in cases such as People v. Corey, 21~~
33 ~~Cal. 3d 738, and Cervantez v. J.C. Penney Co., 24 Cal. 3d~~
34 ~~579, and to reinstate prior judicial interpretations of this~~
35 ~~section as they relate to criminal sanctions for battery on~~
36 ~~peace officers who are employed, on a part-time or casual~~
37 ~~basis, while wearing a police uniform as private security~~
38 ~~guards or patrolmen and to allow the exercise of peace~~
39 ~~officer powers concurrently with that employment.~~

~~Notwithstanding Section 17580 of the Government Code, unless otherwise specified, the provisions of this act shall become operative on the same date that the act takes effect pursuant to the California Constitution.~~

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